

Beth E. Terrell, WSBA #26759
Marc C. Cote, WSBA #39824
Attorneys for Plaintiff
TERRELL MARSHALL LAW GROUP PLLC
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
Telephone: (206) 816-6603
Facsimile: (206) 319-5450
Email: bterrell@terrellmarshall.com
Email: mcote@terrellmarshall.com

[Additional Counsel Appear on Signature Page]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICHARD STAPLEMAN, individually
and on behalf of all persons similarly
situated,

Plaintiff,

v.

QUALITY INTEGRATED SERVICES,
INC.,

Defendant.

NO. 2:16-cv-0024-SMJ

STIPULATION AND PROPOSED
ORDER FOR CONDITIONAL
CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT
TO 29 U.S.C. § 216(b)

CLASS AND COLLECTIVE
ACTION

JURY TRIAL DEMANDED

Plaintiff Richard Stapleman (“Plaintiff”) and Defendant Quality Integrated Services, Inc. (“Defendant” or “QIS”), through their undersigned counsel, file this Joint Stipulation for Conditional Certification and Court-Approved Notice Pursuant to 29 U.S.C. § 216(b), and state as follows:

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 1**

1 1. Plaintiff brought this action on behalf of himself and all others
2 similarly situated. Plaintiff alleges that he was paid on a day rate basis and worked
3 well in excess of 40 hours a week without receiving time-and-a-half overtime pay
4 in violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.* and
5 Washington law. Defendant denies that it violated the FLSA or Washington wage
6 and hour laws. Defendant claims that Plaintiff and any opt-in class members were
7 paid a salary and exempt under various FLSA or Washington wage and hour laws.

8 2. The parties have met and conferred, and in the interests of efficiency
9 and judicial economy, stipulate and agree to FLSA conditional certification of this
10 lawsuit pursuant to 29 U.S.C. § 216(b) on behalf of the following class of
11 employees:

12 All current or former employees of QIS who performed work in
13 Inspector Positions on the Northwest Pipeline Project and whose
14 wages were calculated on a daily basis at any time between [the
15 present and three years prior to the date that the Court issues an Order
16 granting Conditional Certification] and the present (the “FLSA
17 Class”).

18 3. The parties define “Inspector Positions” as the following positions:
19 Utility Inspector, Senior Utility Inspector, Craft Inspector, and Senior Craft
20 Inspector. There are approximately 50-60 potential FLSA Class Members.

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 2**

1 4. By agreeing to this stipulation, the parties agree that Defendant does
2 not waive its right to argue, upon a motion at or near the end of fact discovery, or
3 such other time as set by the Court, that the FLSA Class should be decertified.

4 5. A proposed Notice and Opt-In Consent Form for approval by the
5 Court are attached hereto as Exhibits A and B.

6 6. The parties agree to the following notice program:

7 a. Within ten (10) business days from the date of the Court's
8 Order conditionally certifying the FLSA Class and approving Exhibits A and B,
9 Defendant shall deliver to Plaintiff's counsel an electronic spreadsheet of the
10 names, last known mailing addresses, last known telephone numbers, last known
11 email address, and dates of employment, and last four digits of Social Security
12 Numbers of all putative FLSA Class members (all of which may be produced
13 subject to an agreed protective order maintaining the confidentiality of this
14 information).

15 b. Within five (5) business days of receiving this information,
16 Plaintiff's counsel shall cause to be mailed and emailed, at their expense, the
17 approved Notice and Opt-In Consent Form to the putative FLSA Class Members
18 and shall include a self-addressed, stamped envelope. Plaintiffs may employ a
19 third-party administrator for this task. If so, Plaintiffs will provide the name of the
20 third-party administrator to the Defendant. Prior to sending the Notice, Plaintiff's

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 3**

1 counsel or the third-party administrator shall run the list of putative FLSA Class
2 Members through the U.S. Postal Service's National Change of Address database
3 ("NCOA"), and will perform address searches using public and proprietary
4 electronic resources which collect data from various sources such as utility records,
5 property tax records, motor vehicle registration records (where allowed) and credit
6 bureaus. Plaintiff and/or the Notice Administrator may undertake reasonable
7 efforts to attempt to locate putative members of the FLSA Class for whom notices
8 are returned as undeliverable.

9 c. Any potential member of the FLSA Class shall have sixty (60) days
10 from the date of mailing of the Notice and Opt-In Consent Form to return a copy of
11 the Opt-In Consent Form to Plaintiff's counsel (or the third-party notice
12 administrator ("Notice Administrator")) for filing ("Notice Period"). Putative
13 FLSA Class Members may submit their Opt-In Consent Forms via regular mail,
14 electronic mail, or facsimile, and they may execute and submit their Opt-In
15 Consent Forms online through an electronic signature service that will be
16 established by Plaintiff's counsel or the Notice Administrator. The electronic
17 signature service shall be mutually agreed upon by Plaintiff's counsel and
18 Defendant's counsel. To sign the electronic consent form, a potential class
19 member shall be required to provide his or her email address to receive a unique
20 access code to access the consent form. The entire notice shall be provided to each

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 4**

1 potential class member when the individual logs in to consent. If a potential class
2 member does not follow the correct electronic opt-in procedures, that individual
3 shall not be deemed to have completed an opt-in consent form, unless a timely
4 correction is made. Plaintiff's counsel or the Notice Administrator shall remove
5 access to all electronic consent forms the day after the opt-in period closes, and
6 close any website associated with electronically opting-in to the class. Plaintiff nor
7 the Notice Administrator shall post the Notice or Opt-in Consent Form on any
8 public web page, including any "landing" page on Plaintiff counsel's firm website
9 or the Notice Administrator's website. Plaintiff's counsel shall retain or require the
10 Notice Administrator to retain all metadata associated with the electronic signature
11 service and shall produce the metadata on any opt-in plaintiff to Defendant upon
12 request.

13 d. Opt-In Consent Forms will be deemed to be filed on the day
14 they are stamped as received by either Plaintiff's counsel or the Notice
15 Administrator and documentation of the receipt date shall be provided to
16 Defendant upon request. All Opt-In Consent Forms that are received by mail must
17 be postmarked, emailed or electronically signed within 60 days from the date of
18 mailing. Any consent form emailed to Plaintiff's counsel by a class member must
19 contain the class member's signature on the consent form and be transmitted to
20 Plaintiff's counsel in pdf format or otherwise submitted on the electronic signature

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 5**

1 service described above; a return email from a potential class member without a
2 signed consent form is not sufficient for the individual to opt-in to the lawsuit. If
3 Plaintiff's counsel elects to use a third-party administrator, the third party
4 administrator will send ".pdf" copies of all returned Opt-In Consent Forms to
5 Plaintiff's counsel, who will file them electronically on the docket on a weekly
6 basis. Opt-In Consent forms must be filed with the Court within five business days
7 after close of the 60-day opt-in consent period for a putative FLSA Class member
8 to be considered timely for purpose of individuals joining this collective action.
9 Plaintiff shall meet and confer with Defendant prior to filing any Opt-in Consent
10 Forms that are postmarked in excess of five (5) business days after the close of the
11 60-day opt-in consent period.

12 e. All costs associated with the mailing of notices and opt-in
13 consent process shall be borne by Plaintiff's counsel.

14 f. If the Notice Administrator or Plaintiff's Counsel receives an
15 Opt-In Consent Form from an individual who has not been previously identified on
16 the list provided by Defendant pursuant to paragraph 6(a), Plaintiff's Counsel shall
17 notify Defendant's counsel of the identity of the individual, and Defendant shall
18 provide employment history information for that individual within 5 business days.
19 If the parties cannot agree on whether the individual should properly be a member
20

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 6**

1 of the collective as defined in paragraph 2, above, Plaintiff's Counsel shall file the
2 Opt-In Consent Form with an attached notice documenting the disagreement.

3 7. To conserve resources during the Notice Period, the parties agree that
4 the case, including all issues related to the Washington state law claims, shall be
5 stayed from the date of the Court granting conditional certification until 30 days
6 after the close of the opt-in notice period. The parties agree to meet and confer to
7 determine any additional informal discovery they believe is necessary to facilitate
8 discussions regarding settlement.

9 8. Within 30 days after the close of the opt-in consent period, the parties
10 shall file a joint report apprising the Court as to the status of any settlement
11 discussions and/or the need for additional status conference.

12 WHEREFORE, the parties respectfully request that the Court approve this
13 Stipulation and sign the accompanying proposed order conditionally certify the
14 FLSA Class pursuant to 29 U.S.C. § 216(b), and stay the case until 30 days after
15 the close of the opt-in consent period to facilitate the parties' settlement
16 negotiations.

17 Dated: June 24, 2016

Respectfully submitted,

18 **BERGER & MONTAGUE, P.C.**

McAFEE & TAFT

19 /s/ Sarah R. Schalman-Bergen

/s/ Sam Fulkerson

20 Shanon J. Carson

Philip Bruce

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 7**

Sarah R. Schalman-Bergen
Alexandra K. Piazza
Camille Fundora
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, Pennsylvania 19103
Telephone: (215) 875-3000
Facsimile: (215) 875-4604
scarson@bm.net
sschalman-bergen@bm.net
apiazza@bm.net
cfundora@bm.net

Beth E. Terrell
Marc C. Cote
**TERRELL MARSHALL LAW
GROUP PLLC**
936 North 34th Street, Suite 300
Seattle, Washington 98103-8869
Telephone: (206) 816-6603
Facsimile: (206) 319-5450
bterrell@terrellmarshall.com
mcote@terrellmarshall.com

Richard J. (Rex) Burch *
James A. Jones *
BRUCKNER BURCH, PLLC
8 Greenway Plaza, Suite 1500
Houston, Texas 77046
Telephone: (713) 877-8788
Facsimile: (713) 877-8065
rburch@brucknerburch.com
jjones@brucknerburch.com

*Attorneys for Plaintiff and the Proposed
Classes*

**Pro Hac Vice Motion Forthcoming*

Sam Fulkerson
Tony Puckett
McAFEE & TAFT
10th Floor, Two Leadership Square
211 North Robinson
Oklahoma City, Oklahoma 73102
Telephone: (405) 235-9621
Facsimile: (405) 235-0439
philip.bruce@mcafeetaft.com
sam.fulkerson@mcafeetaft.com
tony.puckett@mcafeetaft.com

Chelsea D. Petersen
PERKINS COIE – SEA
1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
CDPetersen@perkinscoie.com

**STIPULATION AND PROPOSED ORDER FOR
CONDITIONAL CERTIFICATION AND COURT-
APPROVED NOTICE PURSUANT TO 29 U.S.C. § 216(b)- 8**